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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,265	03/04/2002	Charles S. Zappala	10194.8041.US01	6538
30083	7590	08/04/2005	EXAMINER	
PERKINS COIE LLP/AWS			PHAN, HUY Q	
P.O. BOX 1247			ART UNIT	
SEATTLE, WA 98111-1247			PAPER NUMBER	

2687

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/090,265	ZAPPALA, CHARLES S.	
	Examiner	Art Unit	
	Huy Q. Phan	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Amendment filed on date: 06/30/2005.
Claims 6-11 and 23-25 are still pending.

Response to Arguments

2. Applicant's arguments, see remarks, filed on 06/30/2005, with respect to the rejection(s) of claim(s) 6-11 and 23-25 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-9 and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Borkowski et al. (US-RE38,267 E).

Regarding claim 6, Borkowski et al. disclose a mobile unit (fig. 4, mobile station) for use in a wireless communications network (fig. 4 and its description), comprising:

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an operating system (inherently for "Motorola cellular phone"; see col. 5, lines 19-24), including hardware and software that performs communications functions (fig. 4 and its description);

call quality data components (inherently for "Motorola cellular phone"; see col. 5, lines 19-24) to determine at least one call quality metric (fig. 3 and its description); and

a location system (inherently for "Motorola cellular phone"; see col. 5, lines 19-24), comprising hardware and software that determine a location of the mobile unit in compliance with enhanced 911 requirements (col. 2, lines 11-59), wherein the location system, receives a query (col. 2, line 60-col. 3, line 5; also see col. 8) from a switch (fig. 4, MSC 33), wherein the query includes a request for call data and location data (see cols. 7-8), wherein the location data comprises a location of the mobile unit in compliance with E911 requirements (col. 2, lines 11-59); and transmits the location data and the call quality metric to the switch in response to the request (col. 2, line 60-col. 3, line 5; also see col. 8).

Regarding claim 7, Borkowski et al. disclose the mobile unit of claim 6, wherein the location system includes global positioning system equipment (col. 10, line 60-col. 11, line 65).

Regarding claim 8, Borkowski et al. disclose the mobile unit of claim 6, further comprising a performance monitoring system that monitors and stores multiple network performance characteristic measurements (fig. 3 and its description; also see col. 9,

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lines 41-59).

Regarding claim 9, Borkowski et al. disclose a method for analyzing a wireless communications network in real-time (see cols. 7-8), comprising:

receiving performance monitoring criteria (fig. 3 and its description; also see col. 9, lines 41-59);

using the performance monitoring criteria to query (col. 2, line 60-col. 3, line 5; also see col. 8) at least one mobile unit (fig. 4, mobile station) in the wireless communications network (fig. 4 and its description);

receiving at least one response to the query, including call data and location data (see cols. 7-8);

creating a link between the call data and the location data (figs. 3-4 and their description; also see cols. 7-8);

storing the call data, the location data, and the link in a server (fig. 3 and its description; also see col. 9, lines 41-59);

accessing the server to retrieve the call data, the location data, and the links (fig. 3 and its description; also see col. 9, lines 41-59);

using the call data, the location data and the links to create at least one performance report (fig. 3 and its description; also see col. 9, lines 41-59), including a graphical report that displays the call data as a function of location and time (col. 3, lines 28-32), wherein the location is a location of a mobile unit with a resolution required by enhanced 911 services (col. 2, lines 11-59), and the time is a time at which the call data

was created and at which the mobile unit was in the location (figs. 3-4 and their description; also see cols. 7-8).

Regarding claim 23, Borkowski et al. disclose a wireless communications system (fig. 4 and its description), comprising:

- a mobile unit (fig. 4, mobile station), wherein the mobile unit includes,
- a performance monitoring means that records multiple network performance characteristics (inherently for "Motorola cellular phone"; see col. 5, lines 19-24); and
- a location means (inherently for "Motorola cellular phone"; see col. 5, lines 19-24) that creates location data describing a location of the mobile unit with a resolution required by enhanced 911 services (col. 2, lines 11-59); and
- a data processing means in communication with the mobile unit (inherently for "Motorola cellular phone"; see col. 5, lines 19-24), comprising, means for using the network performance characteristics and the location data to create at least one performance report (col. 6, lines 18-67), including a graphical report that displays the call data as a function of location and time (cols. 7-8), wherein the location is the location of the mobile unit at the time the network performance characteristics were recorded (cols. 7-8).

Regarding claim 24, Borkowski et al. disclose the wireless communications system of claim 23, wherein the data processing means further comprises: means for receiving performance monitoring criteria (figs. 3-4 and their description; also see cols.

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7-8); means for using the performance monitoring criteria to query (col. 2, line 60-col. 3, line 5; also see col. 8); and means for receiving a response to the query ([0035]-[0038]), wherein the response includes the network performance characteristics and the location data (cols. 7-8).

Regarding claim 25, Borkowski et al. disclose the wireless communications system of claim 23, wherein the data processing means further comprises: means for creating a link between the network performance characteristics and the location data (figs. 3-4 and their description; also see cols. 7-8); means for storing the network performance characteristics, the location data, and the link in a server (figs. 3-4 and their description; also see cols. 7-8); and means for retrieving the network performance characteristics and the location data (figs. 3-4 and their description; also see cols. 7-8) in response to a request to create at least one performance report (cols. 7-8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski et al. in view of Kalliokulju et al. (US-6,741,843).

Regarding claim 10, Borkowski et al. disclose the method as recited in the rejection of claim 9. But, Borkowski et al. do not particularly show automatically adjusting parameters of the wireless communications network based on the at least one performance report and predetermined performance guidelines. However in analogous art, Kalliokulju et al. teach automatically (inherently for any operation without operator) adjusting parameters of the wireless communications network in responding the emergency call (col. 5, lines 1-8); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Borkowski et al. as taught by Kalliokulju et al. for purpose of improving advantageously the enhanced 911 service of communication system in order to "ensure that the pay service in question will be carried out successfully" (see Kalliokulju et al. col. 5, lines 1-8).

Regarding claim 11, Borkowski et al. and Kalliokulju et al. disclose the method as recited in the rejection of claim 10. Kalliokulju et al. further discloses wherein the parameters include power settings of network components, and frequency assignments (col. 6, lines 42-65).

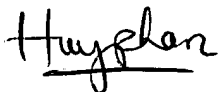
Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 8AM-6PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid G Lester can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Examiner: Phan, Huy Q.


SONNY TRINH
PRIMARY EXAMINER

AU: 2687

Date: 07/25/2005